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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 TIM NAY, *et al.*,

10 Plaintiffs,

11 v.

12 BNSF RAILWAY CO., *et al.*,

13 Defendants.

14 Case No. 3:19-cv-5425-BHS-MLP

15 ORDER GRANTING PLAINTIFFS'
16 MOTION TO AMEND COMPLAINT

17 This matter comes before the Court upon Plaintiffs' Motion for Leave to File an
18 Amended Complaint, to which Defendants have filed no opposition. (Dkt. # 29.) Plaintiffs have
19 properly complied with Federal Rule of Civil Procedure 15 and Western District of Washington
20 LCR 15 by filing a motion for leave to amend the complaint, along with a red-lined copy of the
21 proposed amended pleading attached as an exhibit. (*Id.*)

22 The Court is afforded discretion to grant leave to amend, and "should freely give leave
23 when justice so requires." Fed. R. Civ. P. 15(a)(2). The generosity in granting leave to amend is
24 "to be applied with extreme liberality." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048,
25 1051-52 (9th Cir. 2003). Courts consider five factors when deciding whether to grant leave to
26 amend: (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of

amendment, and (5) whether the pleading has previously been amended. *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011). An amendment is futile if it adds a claim that could not withstand a motion to dismiss. *Jones v. Cnty. Redevelopment Agency of L.A.*, 733 F.2d 646, 650-51 (9th Cir. 1984). However, prejudice “carries the greatest weight.” *Eminence Capital, LLC*, 316 F.3d at 1052. “Absent prejudice, or a strong showing of any of the remaining . . . factors, there exists a presumption under Rule 15(a) in favor of granting leave to amend.” *Id.*

7 The Court, having reviewed Plaintiffs' motion and proposed amended complaint,
8 GRANTS Plaintiffs' motion for leave to file an amended complaint. (Dkt. # 29.) Defendants
9 have not opposed Plaintiffs' request to amend, and there is no evidence that granting Plaintiffs'
10 request will result in unfair prejudice and delay.

11 The Clerk is directed to send copies of this Order to the parties and to the Honorable
12 Benjamin H. Settle.

13 Dated this 27th day of November, 2019.

M. J. Rehman

MICHELLE L. PETERSON
United States Magistrate Judge